IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.808 of 2017 (O&M)
Date of Decision.21.11.2019

Raj Rani and others ...Appellants

Vs

Ishar Ram and others ...Respondents

Present: Mr. Karan Garg, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for the insurance company.

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

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JAISHREE THAKUR J. (ORAL)

1. The appeal is for enhancement of compensation on account of death of one Bhushan Kumar, who died at the age of 30 years in a motor vehicular accident, that took place on 25.08.2013. The deceased along with his family members and relatives were going to Salasar Balaji in car bearing registration No.PB-03AA-9685 being driven by one Gurwinder Singh when a truck trolla bearing registration No.RJ-07GA-1550, being driven rashly and negligently by respondent No.1, struck against their car, resulting into injuries, which proved fatal. A criminal case was also registered against respondent No.1.

2. The deceased was running a Karyana shop and was stated to be earning ₹20,000/- per month.

3. The Tribunal while assessing the compensation took income of the deceased as ₹72,000/- per annum, made a deduction of 1/4th towards personal expenses and applied multiplier of 17 to assess the loss of dependency as ₹9,18,000/-. It further provided ₹1,75,000/- towards loss of

consortium, loss of love and affection, loss of estate and funeral expenses, thus, in all, a compensation of ₹10,93,000/- was awarded along with interest @9% per annum from the date of filing of claim petition.

4. Learned counsel appearing on behalf of the appellants would contend that the amount of compensation as assessed by the Tribunal is wholly inadequate, as the Tribunal has failed to provide future prospects in terms of judgment rendered by Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others (2017) 13 SCALE 12, 2017 (4) RCR (Civil) 1009*** while arguing that income of the deceased has been assessed on lower side.

5. Per contra, Mr. Lalit Garg, learned counsel appearing on behalf of the insurance company submits that the Tribunal has assessed all the heads of claim sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal by upholding the award passed by the Tribunal.

6. I have heard learned counsel for the parties, appraised the paper book and am of the view that there is scope for enhancement, as the Tribunal did not provide an increase of 40% towards future prospects in case where the deceased was self-employed or on a fixed salary and was below the age of 40 years. The Tribunal has correctly assessed the income but has failed to provide an increase of 40% towards future prospects on salary of deceased i.e. ₹72,000/- per annum. As the claimants are more than three, 1/4th deduction is allowed towards personal expenses. The multiplier of 17 applied by the Tribunal is correct but a sum of ₹70,000/- towards consortium, loss of estate and funeral expenses is to be allowed as per ratio culled out by Hon'ble Supreme Court in ***Pranay Sethi*** (supra).

7. In all, the compensation payable shall be ₹13,55,200/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of claim petition till realization except for the period of delay in filing the appeal i.e. 179 days. The liability shall remain the same as has already been determined by the Tribunal. The enhanced amount shall be kept in a fixed deposit in equal ratio in the name of minor children to be payable to them on their attaining majority, however, the interest accrued on the same shall be paid to the mother for meeting expenses on their education and maintenance.

8. The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(JAISHREE THAKUR)
JUDGE

November 21, 2019
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No